REMARKS

Claims 1 and 3-30 are pending in the application. Claims 1, 5 and 7 are amended for clarification purposes. Reconsideration in view of the above amendments and following remarks is respectfully requested.

Allowable Subject Matter

Applicants gratefully acknowledge that the Office Action did not apply any rejection to claims 27-30. Therefore, Applicants assume that claims 27-30 are considered to contain allowable subject matter.

Paragraph 17 of the Office Action states that if Applicants' obviate the rejection under 35 U.S.C. §112 by clarifying how a user model is derived using an inverse demographic matrix method (as recited in claims 13-26), then the above recitation would constitute allowable subject matter. Applicants submit that the rejection under 35 U.S.C. §112 is obviated below. Therefore, Applicants submit that claims 13-26 contain allowable subject matter.

Rejections under 35 U.S.C. §112

The Office Action rejects claims 5 and 7 under 35 U.S.C. §112, first paragraph, and asserts that the specification, while being enabling for the remaining claims, does not reasonably provide enablement for "derived user interests". In response, Applicants amend claims 5 and 7 as suggested in the Office Action to obviate this rejection.

The Office Action rejects claims 8 and 13-26 under 35 U.S.C. §112, first paragraph. In particular, the Office Action asserts that the specification, while being enabling for the remaining claims, does not reasonably provide enablement for a user model derived using an

inverse demographic matrix (IDM) method. The Office Action further asserts that the specification does not clearly define the user model.

Paragraph 327 of the specification states:

> To determine individual persons, and not just a group percentage, matching a behavior, current set-top box viewer possibilities may be best fit to IDM calculation specification percentages for any event for the population of some graphic region or set of regions. *In this way, individual behaviors can be determined.* This best fit may be performed by spot-filling in a manner similar to that outlined above. Every person can accounted for by the present invention, whether are at a bar, a neighbor's home, or their own home. The IDM specification percentage may be fit to evolutionary specification percentages for each box, thereby accounting for such deviations.

(Specification, Paragraph 327) (Emphasis Added).

Thus, as described in Applicants' specification, the IDM is used to determine individual persons and individual behaviors. One of ordinary skill in the art would know that the above recitation is describing one possible user model. As shown by the paragraph cited above, as well as its surrounding text, the IDM method can be used to derive this user model. Therefore, claims 8 and 13-26 are enabled and the rejection under 35 U.S.C. §112, first paragraph should be withdrawn.

Rejections under 35 U.S.C. §102 and §103

The Office Action rejects Claims 1, 3, 5-7, and 9-12 under 35 U.S.C. §102(b) as being anticipated, or alternatively under 35 U.S.C. §103(a) over Salgonicoff, U.S. Patent No. 5,734,720 (hereinafter "Salgonicoff"), claim 4 under 35 U.S.C. §103(a) over Salgonicoff in view of Jenkins, U.S. Patent No. 6,285,983 (hereinafter "Jenkins"), claims 8, 13-15, and 19-22 under 35 U.S.C. §103(a) over Salgonicoff in view of Gerace, U.S. Patent No. 5,848,396 (hereinafter "Gerace"), and claims 16-18 and 23-26 under 35 U.S.C. §103(a) over

Salgonicoff in view of Jenkins and in further view of Gerace. These rejections are respectfully traversed.

Salgonicoff discloses scheduling the receipt of desired movies and other forms of data from a network. (*See* Abstract)

Applicants assert that Salgonicoff fails to teach or suggest anonymously collecting data associated with at least one set top box in a privacy compliant manner, as recited in independent claim 1.

Salgonicoff states:

> In accordance with the invention, there are several ways to develop the initial customer and content profiles for such characteristics. For example, the initial customer profile may be assigned on the basis of the customer's zip code or other characteristic demographic information. In other words, the profile may be set to a profile typical of the customer's zip code area or to a typical profile *determined by interviews* or empirically by monitoring what customers watch. Similarly, each customer may be assigned a generic customer profile which is personalized over time through the profile adjustment techniques to be described below. Alternatively, a customer may be *asked to name* several of his or her favorite movies and television shows so that an initial customer profile may be determined by combining or averaging the content profiles of the selected movies and television shows. In addition, each customer may *complete a ballot* for each viewing mood.

(Salgonicoff, col. 11, line 60 – col. 12, line 9) (Emphasis Added).

Salgonicoff further states:

> In accordance with the invention, a passive feedback technique is provided whereby the programming viewed by the customers are automatically monitored and used to adjust the customer profiles. That technique will be described in more detail in Section V below. This section will instead refer to an *active feedback mechanism* which will be referred to as a "rave review."

(Salgonicoff, col. 14, lines 5-11) (Emphasis Added).

In other words, Salgonicoff teaches that after an initial profile is created using a user

submitted data or a standard profile is used, the profile is adjusted based on what the user actively indicates or is monitored as watching. Salgonicoff associates each set-top box and all data from the set-top box with personally identifiable information (PII) of the user (*See e.g.,* Salgonicoff col. 11, line 60 – col. 12, line 11). So therefore, Salgonicoff identifies the user with the data and as such, does not perform monitoring of the user anonymously in a privacy compliant manner. Applicants respectfully submit, therefore, that elements of independent claim 1 are neither shown nor suggested by Salgonicoff.

Applicants submit that Jenkins and Gerace do not over come the above-noted deficiencies of Salgonicoff. Jenkins discloses creating marketing profiles and for directing customized offers to consumers while preserving consumer privacy (*See e.g.,* Abstract). Gerace discloses a computer network providing targeting of appropriate audience based on psychographic or behavioral profiles of end users (*See e.g.,* Abstract).

Thus, Applicants submit that neither Salgonicoff, Jenkins, Gerace, nor any combination thereof, teach or suggest anonymously collecting data associated with at least one set top box in a privacy compliant manner, as recited in independent claim 1.

Additionally, neither Salgonicoff, Gerace, Jenkins nor any combination thereof teach or suggest at least one set top box user model is derived using an inverse demographic matrix method, as recited in independent claims 13, 16, 19, and 23. The Office Action cites the regression analysis of Gerace as teaching the inverse demographic matrix method. However, the regression analysis of Gerace is not Applicant's claimed inverse demographic matrix method. As a practical matter, regression analysis may be but one step in the claimed inverse demographic matrix method. As such, regression analysis is not the same as or equivalent to,

the entire claimed inverse demographic matrix method. Applicants respectfully submit, therefore, that elements of independent claims 13, 16, 19, and 23 are neither shown nor suggested by Salgonicoff and Gerace.

Applicants submit that independent claims 1, 13, 16, 19 and 23 contain allowable subject matter, and as such, is in condition for allowance. Claims 3-12, 14-15, 17-18, 20-22, and 24-26 depend from independent claims 1, 13, 16, 19 and 23 and are therefore also in condition for allowance. Accordingly reconsideration and withdrawal of the rejections of claims 1 and 3-26 under 35 U.S.C. §102(b) and 35 U.S.C. §103 are respectfully requested.

For all the above reasons, the Applicant respectfully submits that this application is in condition for allowance. A Notice of Allowance is earnestly solicited.

The Examiner is invited to contact the undersigned at (408) 975-7500 to discuss any matter concerning this application.

The Office is hereby authorized to charge any additional fees or credit any overpayments under 37 C.F.R. §1.16 or §1.17 to Deposit Account No. **11-0600**.

Respectfully submitted,

KENYON & KENYON

Dated: <u>April 16, 2004</u>   By: _____
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